

## **Air Toxics Regulation Group Meeting April 3, 2003**

Meeting Attendees: P. Daggett, S. McFadden, R. Hittinger, Molly Clark, Glen Almquist, K. Michalik, J. Boehnert, G. Donnelly, M. DeCelles, J. Marine, P. Robinson

DEM: S. Majkut, B. Morin, D. McVay, G. Friedman and T. Getz

Tom Getz opened the meeting by reviewing the agenda items including additional agenda items emailed by Rich Hittinger. He stated that if we complete this agenda we will have covered all of the issues and that the next meeting could be the last meeting.

### **Regulation 9 issues**

Doug McVay stated that he would cover the Regulation 9 issues that were raised during the last meeting including the co-generation issue.

The first issue was whether the BACT evaluations associated with the lower thresholds might pose an additional workload on the preconstruction staff. Doug stated that it has the potential to increase the workload, however, this requirement applies only to new sources or modified sources. He stated that there seemed to be some confusion over BACT analysis, in that we do not go through a full BACT analysis for every construction permit application. That kind of extensive detail is necessary only if the applicant and the DEM disagree. Control technology is generally driven by compliance with the AAL.

Doug also stated that this is a different situation from criteria pollutants. A number of sources can contribute to whether you meet an air quality standard but, for air toxics, we evaluate each facility's impacts separately. From the standpoint of control technologies he stated that is basically the same kind of things we have been dealing with for years. There aren't many new technologies we need to evaluate from a cost effectiveness standpoint. Considering these issues Doug stated that he didn't see a large increase to the workload if facilities are doing things that they have been doing historically.

A question was posed regarding an economic analysis for the new substances, Doug clarified that, if the process emitting the new substance is not using new equipment and it is the same kind of substance (e.g. VOC) used in the equipment previously, it would not be necessary.

There was a question regarding whether the DEM could pick a dollar amount that would be considered BACT. Doug stated that he would be hesitant to do so. He stated that we have been reasonable in the past. He stated that in general whatever control technique a facility was using that allowed it to meet the AAL was preferable to changing to a new control technology.

There was also a question if a small change in airflow would trigger a Reg. 9 permit process. Steve Majkut once again reiterated that a process modification that results in an increase in emissions over the Minimum Quantities would require a Reg. 9 permit. Doug further clarified that if you are operating within your permit capacity it is not a modification.

Barbara Morin stated that we would continue to perform an inventory and that new substances added to the regulation would be subject to an air toxics operating permit but would not trigger a Reg. 9 permit unless the facility increased the emissions of those substances beyond the Minimum Quantities after the effective date of the amendments.

There were questions regarding whether the state could give facilities a few years to identify what might be covered. Barbara Morin stated that the inventory for this year was just sent out so facilities have a year to identify new substances covered. In addition we prioritize sources according to potential hazard, so an ATOP might not be required for a facility for some time. In general she stated that we are not going to reopen current permits unless there is a immediate health issue, but would evaluate additional substances and amended AALs when during renewal of the ATOP. In addition Barbara stated that you only have to apply for air toxics permit when we send you an application form and then you have 60 days to submit the application.

### **Landfill Gases**

Doug McVay stated that he had looked at the question if landfill gases should be exempt. He stated that you would need to look at the whole facility (landfill) and therefore could not see the logic in having an exemption of some of the gases coming from a facility (i.e. from landfill gas engines). He further stated that you couldn't do an air toxics evaluation for a facility and just leave out the portion of gas going to an engine. It was stated that natural gas was exempt, however Barbara Morin pointed out the natural gas does not contain some of the potential contaminants that landfill gas contains.

### **Electric Generation**

Doug McVay stated that the fuel burning exemption would include standby generators, including emergency generators and generators temporarily in remote areas of a facility's property where electricity is not available. Doug also clarified that a peaking facility was not exempt. There were concerns raised that facilities should not be regulated or exempted solely based on end use. Steve Majkut said that we would look at this issue further. Several suggestions were made including exempting minor but not major sources. Doug McVay felt these were reasonable suggestions. Tom Getz stated that we would come back with a proposal.

### **AAL Report**

Barbara Morin meet with Cyndee Fuller, Bob Vanderslice from the Health Department and Paul Daggett regarding the comments received on the derivation of the AALs. She provided a summary of this meeting to the group. There was question as to whether someone could challenge the AALs. It was stated that, in general, people with concerns about a particular AAL would be directed to comment directly to the agency (EPA, CAL or ATSDR) that developed the health benchmark on which the AAL was based. However, in the case where those agencies have made errors, DEM would make adjustments as appropriate. Barbara emphasized that there were certain procedures used in the AAL derivation process, such as the use of an extra safety factor for carcinogens without potency factors, that involved policy decisions (e.g. response to public concern about cancer) with hard science. John Boehnert said that there may be additional comment on those areas during the public comment period. Steve Majkut asked if all were in agreement now on the development of these limits. Barbara Morin stated that there is no perfect answer for all issues but that the group had come to a general agreement on how to proceed.

### **MSDS Issue**

Gina Friedman stated that she at looked at the issue of proprietary information on chemical composition being omitted from MSDS sheets. She stated that, according the OAR's inventory

group, the Department of Labor and the Office of Waste Management, it appears that most manufacturers are willing to provide necessary information about proprietary mixtures upon request. In addition, a facility could ask a manufacturer to certify that none of the material listed in our Air Toxics regulation was present in quantities greater than 1%, or 0.1% for carcinogenic materials. John Boehnert was concerned that this was not clear in the regulation and will suggest alternative language.

### **ATOP Regulation Clarification**

Barbara Morin stated that when we revoke or deny an Air Toxics permit we would tell a facility the reason. The regulation language has been changed to reflect this. John Boehnert will send in suggested language on this issue.

The next meeting is April 24<sup>th</sup> in Room 300 at 10:00 AM. DEM will distribute a draft amended regulation prior to the meeting that incorporates the changes agreed upon to date.